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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,890	02/27/2002	Georges Marcel Victor Thielen	DN2001057	8170
7590	04/02/2004			
The Goodyear Tire & Rubber Company Patent & Trademark Department - D/823 1144 East Market Street Akron, OH 44316-0001			EXAMINER LEE, RJP A	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 10/084,890	Applicant(s) VICTOR THIELEN ET AL.	
	Examiner Rip A. Lee	Art Unit 1713	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: attachment to advisory action

Attachement to Advisory Action

This advisory action follows an after final response filed on March 3, 2004. Claims 1-20 have been rejected under 35 U.S.C. 103(a) over EP 0 942 042 to Colvin *et al.* and under 35 U.S.C. 103(a) over EP 0 942 042 to Colvin *et al.* in view of U.S. Patent No. 5,614,580 to Zanzig *et al.* or U.S. Patent No. 5,674,932 to Agostini *et al.*

Applicants contend that unexpected results are represented in the data furnished in Example 1. These results have been tabulated on page 3 of the response. Samples A and C, in which ZnO is added in the productive mixing stage, exhibit MS/1.5 (100 °C) values of 45. On the other hand, samples B and D, in which ZnO is added in the non-productive mixing stage, exhibit MS/1.5 values of 34. Therefore, it can be concluded that addition of ZnO in the productive stage results in an increase in viscosity of about 11 units.

It is not clear how such an increase in viscosity constitutes Applicant's claims to "superior properties." In fact, it is noted that higher viscosity renders the compound less processable, thereby necessitating use of additional processing aids. As such, the results shown in Tables A and B are unexpected, only in the sense that viscosity of the overall compound is determined empirically (*i.e.*, it can not be predicted beforehand), but the results are not unexpected in the context that they are superior than that of the closest prior art material.

The comparison with sample E and F is noted, however, these materials do not contain MVR rubbers, and therefore, the comparison is not a valid one.

In view of the discussion above, the two rejections of record have not been withdrawn.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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March 31, 2004



DAVID W. WU
SUPERVISORY PATENT EXAMINER
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